IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 5629 of 2006(T)

PETITIONERS:

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1. **K. DIVAKARAN, SENIOR SUPERINTENDENT, KSE BOARD, ELECTRICAL CIRCLE, KANNUR.**

2. **V. GEETHA, SENIOR SUPERINTENDENT, KSE BOARD, BUILDINGS AND STORES DIVISION, ANGAMALI.**

3. **P.V. JAGADANAND, SENIOR SUPERINTENDENT, KSE BOARD, ELECTRICAL CIRCLE, THOTTABHAGAM, THIRUVALLA.**

4. **K. SASIDHARAN, SENIOR SUPERINTENDENT, KSE BOARD, ELECTRICAL CIRCLE, KOZHIKODE.**

5. **G. RADHAKRISHNAN NAIR, SENIOR SUPERINTENDENT, KSE BOARD, ELECTRICAL DIVISION, KOLLAM.**

6. **K.N. BAPPUJI, SENIOR SUPERINTENDENT KSE BOARD, ELECTRICAL DIVISION, KOTTARAKKARA.**

7. **KORUTHU SAMUEL, SENIOR SUPERINTENDENT KSE BOARD, ELECTICAL CIRCLE, KOLLAM.**

8. **V. MANOJ KUMAR, SENIOR SUPERINTENDENT KSE BOARD, ELECTRICAL SECTION OFFICE, KARUNGAPPALLY SOUTH, KARUNGAPPALLY.**

..2/-

9. S. SAJEEV, SENIOR SUPERINTENDENT
KSE BOARD, ELECTRICAL DIVISION, KOLLAM.

BY ADV. SRI.ELVIN PETER P.J.
SMT.POOJA SURENDRAN

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER (HRM), KSE.BOARD,
VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007 ALONG WITH WPC NO. 2223 OF 2006 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.5629/2006 T

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF PROMOTION ORDER NO.EB3(A) 2222/2003 DTD. 20/12/2003 ISSUED BY THE KSE BOARD.

EXT.P1(A): COPY OF PROMOTION ORDER NO.EB3(A)2222/2003 DTD. 30/07/2004 ISSUEDC BY THE KSE BOARD.

EXT.P1(B): COPY OF PROMOTION ORDER NO.EB3(A) 2222/2004 DTD. 17/12/2004 ISSUED BY THE KSE BOARD.

EXT.P1(C): COPY OF ORDER OF PROMOTION NO.EB3(A) 2222/2005 DTD. 25/08/2005 ISSUED BY THE KSE BOARD.

EXT.P2: COPY OF ORDER, B.O.NO.1105/94/ESTT.II/1188/92 DTD. 18/06/94 ISSUED BY THE KSE BOARD.

EXT.P3: COPY OF ORDER, B.O.NO.181/99 (ESTT.II/9285/82) DTD. 22/01/1999 ISSUED BY THE KSE BOARD.

EXT.P4: COPY OF CIRCULAR NO.EBS1-14/2001-02 DTD.18/10/2003 ISSUED BY THE KSE BOARD ALONG WITH THE LIST.

EXT.P5: COPY OF ORDER NO.EB3(A) 2222/2003 DTD. 20/12/2003 ISSUED BY THE KSE BOARD.

EXT.P6: COPY OF ORDER NO.EBS1-4/2001-02 DTD. 11/07/2001 ISSUED BY THE K.S.E.BOARD.

EXT.P7: COPY OF ORDER NO.EBS1-4/2001-02 DTD.5/01/2002 ISSUED BY THE KSE BOARD.

EXT.P8: COPY OF JUDGMENT DTD. 5TH MARCH, 2003 IN O.P.NO.13283/2002 OF THIS HON.COURT.

EXT.P9: COPY OF ORDER B.O.(FM) NO.133/2006 (ESTT.II/1610/1999) DTD. 16/01/2006 ISSUED BY THE KSE BOARD.

EXT.P10: COPY OF ORDER B.O.(FM) NO.133/2006 (ESTT.II/1610/1999) DTD. 16/01/2006 (EXT.P10) CONTAINING THE ENDORSEMENT OF THE 2ND RESPONDENT ALONG WITH THE PROFORMA.

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C) Nos.5629 of 2006-T, 2223 of 2006-M
7257 of 2006-L & 7641 of 2006-I

Dated this the 4th day of July, 2007.

J U D G M E N T

W.P.(C). 5629 of 2006:

The petitioners in this writ petition are Senior Superintendents, working under the respondents. While holding the substantive posts of Senior Assistants, in which they have confirmation, they have been promoted provisionally, to the post of Senior Superintendents, by Ext.P1 series orders. For appointment to the posts of Divisional Accountant Grade-II, Senior Assistant is the feeder category, in view of Ext.P3 recruitment Rules. In the light of the said Rules, the Kerala State Electricity Board prepared a list of eligible Senior Superintendents, for promotion to the post of Divisional Accountants Grade-II, which is produced as Ext.P4 in the writ petition. All the petitioners were included in the said list. While so, the Board issued Ext.P9 order, stating that the post of Divisional Accountant shall be filled up from Ext.P4, after deleting the persons who are posted as Senior Superintendents. The petitioners challenge Ext.P9 and also the consequential proceedings, based on it. They are holding the post of Senior Assistants substantively and therefore their rights to be considered for promotion to the post of Divisional Accountants is not lost, even if they are provisionally promoted to the post of Senior Superintendents, it is submitted. In support

of this submission, reliance is placed on the Full Bench decision in Balakrishnan Nair Vs. Ram Mohan Nair (1998 (1) KLT 766 (FB) and also in Saifuddin Vs. State of Kerala (2006 (3) KLT 873). The petitioners also point out that the decision of the Full Bench in Balakrishnan Nair's case has been affirmed by the Apex Court also.

2. The K.S.E.B has filed a counter affidavit stating that, once the petitioners are not in the feeder category as a result of their provisional promotion, they are not entitled to be considered for promotion to the post of Divisional Accountants.

3. I heard the learned counsel on both sides. The point raised by the petitioners is squarely covered by the decisions quoted by them. The petitioners who were confirmed to the post of Senior Assistants continue to keep their posts notwithstanding their provisional promotion to the posts of Senior Superintendents. Therefore, they are entitled to be considered for the posts of Divisional Accountants, in the light of the ranking in Ext.P4. Therefore, in view of the above legal position, Ext.P9 and all further proceedings taken pursuant to it are quashed. The competent authority of the Kerala State Electricity Board shall consider the claim of the petitioners for promotion to the posts of Divisional Accountants Grade II, in the light of their ranking in Ext.P4.

W.P.(C).Nos.2223 of 2006-M
7257 of 2006-L & 7641 of 2006-I:

The point raised by the petitioners in these writ petitions is covered by the judgment in W.P.(C) 5629 of 2006. It is ordered that the directions issued in that case will govern these cases also.

The Writ Petitions are disposed of as above.

K.BALAKRISHNAN NAIR,

JUDGE.

MS